

**REGULATION 4**  
**MISCELLANEOUS PROVISIONS**  
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All permits issued pursuant to these Rules and Regulations are subject to the following Rules:

## **RULE 401 RESPONSIBILITY**

Adopted 11-12-74  
(Amended 05-24-77)

The fact that an authorization to construct or modify, or a permit to operate an article, machine, equipment or other contrivance described herein shall have been issued by the Air Pollution Control Officer shall not be an endorsement of such article, machine, or other contrivance; neither shall it be deemed or construed to be a warranty, guarantee or representation on the part of the Air Pollution Control Officer that emission standards would not be exceeded by such article, machine, equipment, or other contrivance. In every instance the person, firm or corporation to whom such authorization or permit is issued shall be and remain responsible under these regulations for each and every instance wherein emission standards are exceeded by the article, machine, equipment, or other contrivance described in the permit, and the fact of issuance or authorization shall not be a defense to or mitigation of any charge of violation.

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## RULE 402 AUTHORITY TO INSPECT

Adopted 11-12-74  
(Amended 05-24-77)

- A. For the purpose of enforcing or administering any State or local law, order, regulation or rule relating to air pollution, the Air Pollution Control Officer and his duly authorized agents shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained therewith by the District.
- B. The Air Pollution Control Officer or his duly authorized agent shall have the right to inspect sampling and monitoring apparatus as he deems necessary.
- C. The Air Pollution Control Officer may issue identification cards, with the photograph of holder and signature of the Air Pollution Control Officer, to such employees of the District who need such credentials for entry.

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## **RULE 403 RESPONSIBILITY OF PERMITTEE**

Adopted 11-12-74  
(Amended 05-24-77)

Issuance of a permit pursuant to these Rules and Regulations does not release permittee of the responsibility of any and all other applicable permits and authorizations issued by other governmental agencies.

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## **RULE 404 UPSET CONDITIONS, BREAKDOWN OR SCHEDULED MAINTENANCE**

Adopted 11-12-74  
(Amended 05-24-77, 06-19-79)

### **A. DEFINITION**

For the purpose of this rule, a breakdown condition means an unforeseeable failure or malfunction of 1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitations or restriction prescribed by these Rules and Regulations, or by State law, or 2) any in-stack continuous monitoring equipment, where such failure or malfunction:

1. is not the result of neglect or disregard of any air pollution control law or rule or regulation;
2. is not intentional or the result of negligence;
3. is not the result of improper maintenance;
4. does not constitute a nuisance;
5. is not a recurrent breakdown of the same equipment.

### **B. BREAKDOWN PROCEDURES**

1. The owner or operator shall notify the Air Pollution Control Officer of any occurrence which constitutes a breakdown condition; such notification shall identify the time, specific location, equipment involved, and (to the extent known) the cause(s) of the occurrence, and shall be given as soon as reasonably possible, but no later than two (2) hours after its detection during normal APCD business hours.
2. The Air Pollution Control Officer shall establish written procedures and guidelines, including appropriate forms for logging of initial reports, investigation, and enforcement follow-up, to ensure that all reported breakdown occurrences are handled uniformly to final disposition.
3. Upon receipt of notification pursuant to subparagraph (B)(1) the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If the Air Pollution Control Officer determines that the occurrence does not constitute a breakdown condition, the Air Pollution Control Officer may take appropriate enforcement action, including but not limited to seeking fines, an abatement order, or an injunction against further operation.

### **C. DISPOSITION OF SHORT-TERM BREAKDOWN CONDITIONS**

1. An occurrence which constitutes a breakdown condition, and which persists longer than 48 hours, except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours, shall constitute a violation of any applicable emission

limitation or restriction prescribed by these Rules and Regulations; however, the Air Pollution Control Officer may elect to take no enforcement action if the owner demonstrates to his satisfaction that a breakdown condition exists and the following requirements are met:

- a. The owner or operator submits the notification required by subparagraph (B)(1); and
  - b. The owner or operator immediately undertakes appropriate corrective measures and comes into compliance, or elects to shut down for corrective measures within 48-hours, (except for continuous monitoring equipment for which the period shall be ninety-six (96) hours). (If the owner or operator elects to shut down rather than come into immediate compliance, (s)he must nonetheless take whatever steps are possible to minimize the impact of the breakdown within the 48-hour period.)
2. An occurrence which constitutes a breakdown condition shall persist no longer than 48-hours, (except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours), unless the owner or operator has obtained an emergency variance.

#### **D. EMERGENCY VARIANCE PROCEDURES**

1. If the breakdown condition will require more than forty-eight (48) hours to correct, (except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours), the owner or operator may, in lieu of shutdown, request the Air Pollution Control Officer to commence the emergency variance procedure set forth in subparagraph (D)(2) below.
2. Upon receipt of a request for any emergency variance, the Air Pollution Control Officer shall contact the chairperson of the hearing board, or their designated member(s) of the hearing board, who shall conduct deliberation for consideration of the request. The Air Pollution Control Officer shall inform the owner or operator of the source of such deliberation. During consideration of the emergency variance, the Air Pollution Control Officer shall recommend whether any emergency variance should be granted, and the owner or operator of the source shall be entitled to present relevant information or data applicable to the breakdown. The burden shall be on the owner or operator to establish that a breakdown condition exists. Thereafter, the chairperson or other such designated member(s) may, without notice or hearing, grant or deny an emergency variance. Reasonable conditions may be included in the variance. The chairperson or other designated member(s) shall, within five working days, issue a written order confirming the decision, with appropriate findings.
3. No emergency variance shall be granted unless the chairperson or other designated member(s) determines that:
  - a. The occurrence constitutes a breakdown condition;
  - b. Continued operation is not likely to create a nuisance, an immediate threat or hazard to public health or safety; and
  - c. The requirement for a variance set forth in Health and Safety Code Sections

42352 and 42353 has been met.

- d. The continued operation in a breakdown condition will not interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

4. At any time after an emergency variance has been granted, the Air Pollution Control Officer may request that the chairperson or designated member(s) reconsider and revoke, modify or further condition the variance if the Air Pollution Control Officer has good cause to believe that:
  - a. Continued operation is likely to create a nuisance, an immediate threat, or hazard to public health or safety; and
  - b. The owner or operator is not complying with all applicable conditions of the variance;
  - c. A breakdown condition no longer exists; or
  - d. Final compliance is not being accomplished as expeditiously as practicable.

The procedures set forth in subparagraph (D)(2) shall govern any further proceedings conducted under this sub-paragraph.

5. An emergency variance shall remain in effect only for as long as necessary, to repair or remedy the breakdown condition, but in no event after a regularly noticed hearing to consider an interim or 90 day variance has been held, or fifteen (15) days from the date of the subject occurrence, whichever is sooner.

#### **E. REPORTING REQUIREMENTS**

Within one week after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Air Pollution Control Officer which includes:

1. A statement that the occurrence has been corrected, together with the date of correction and proof of compliance;
2. A specific statement of the reason(s) or cause(s) for the occurrence sufficient to enable the Air Pollution Control Officer to determine whether the occurrence was a breakdown condition;
3. A description of the corrective measures undertaken and/or to be undertaken to avoid such an occurrence in the future (the Air Pollution Control Officer may, at the request of the owner or operator, for good cause, extend up to 30 days the deadline for submitting the description required by this subparagraph);
4. An estimate of the quantity of or detailed description of emissions caused by the occurrences; and
5. Pictures of the equipment or controls which failed, if available.

#### **F. BURDEN OF PROOF**

The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the Air Pollution Control Officer shall undertake appropriate enforcement action.

**G. FAILURE TO COMPLY WITH REPORTING REQUIREMENTS**

Any failure to comply, or comply in a timely manner, with the reporting requirement established in subparagraph (B)(1) and (E)(1) through (E)(5) of this rule shall constitute a separate violation of this rule.

**H. FALSE CLAIMING OF BREAKDOWN OCCURRENCE**

It shall constitute a separate violation of this rule for any person to file with the Air Pollution Control Officer a report which falsely, or without probable cause, claims that an occurrence is a breakdown occurrence.

**I. HEARING BOARD STANDARDS AND GUIDELINES**

The Hearing Board shall adopt standards and guidelines consistent with this rule to assist the chairperson or other designated member(s) of the Hearing Board in determining whether to grant or deny an emergency variance, and to assist the Air Pollution Control Officer in the enforcement of this rule.

## **RULE 405 SEPARATION OF EMISSIONS**

Adopted 11-12-74  
(Amended 05-24-77)

If air contaminants from a single source operation are emitted through two or more emission points, the total emitted quantity of air contaminants cannot exceed the quantity which would be allowable through a single emission point.

The total emitted quantity of any such air contaminant shall be taken as the product of the highest concentration measured in any of the emission points and the combined exhaust gas volume through all emission points, unless the person responsible for the source operation, establishes to the Air Pollution Control Officer's satisfaction, the correct total emitted quantity.

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## **RULE 406 COMBINATION OF EMISSIONS**

Adopted 11-12-74  
(Amended 05-24-77)

- A. If air contaminants from two or more source operations are combined prior to emission and there are adequate and reliable means reasonably susceptible for confirmation and use by the Air Pollution Control District in establishing a separation of the components of the combined emission to indicate the nature, extent, quantity and degree of emission from each such source operation, the Rules and Regulations shall apply to each such source operation separately.
- B. If air contaminants from two or more source operations are combined prior to emission and the combined emissions cannot be separated according to the requirements of RULE 406 A., the Rules and Regulations shall be applied to the combined emissions as if it originated in a single source operation subject to the most stringent limitations and requirements placed by the Rules and Regulations of any of the source operations whose air contaminants are so combined.



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## **RULE 407 CIRCUMVENTION**

Adopted 11-12-74  
(Amended 05-24-77)

A person shall not build, erect, install or use any article, machine, equipment or other contrivance, the use of which, without resulting in an actual reduction in the total release of air contaminants to the atmosphere, superficially reduces or conceals an emission which would otherwise constitute a violation of Division 26 of the Health and Safety Code of the State of California or of these Rules and Regulations. This rule shall not apply to cases in which the only violations involved are of Section 41700, or of RULE 205 of these Rules and Regulations.

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## **RULE 408 SOURCE RECORD KEEPING AND REPORTING**

Adopted 11-12-74  
(Amended 05-24-77)

The owner or operator of any stationary source, shall, upon notification from the District, maintain records of the nature and amounts of emissions from such sources and/or any other information as may be deemed necessary by the District to determine whether such source is in compliance with applicable emission limitations or other control measures. The Air Pollution Control Officer may require that such records be certified by a professional engineer, registered in the State of California. Such studies shall be at the expense of the person causing the emissions.

The information recorded shall be summarized and reported to the District, on forms or formats as furnished by the District, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31, except that the initial report period shall commence on the date the District issues notification of the record-keeping requirements.

Information reported by the owner or operator and copies of the summarizing reports submitted to the District shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

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## RULE 409 PUBLIC RECORDS

Adopted 11-12-74  
(Amended 05-24-77)

- A. All information, analysis, plans or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce which the District requires any applicant to provide before such applicant builds, erects, alters, replaces, operates, sells, rents, or uses such article, machine, equipment, or other contrivances, are public records.
- B. All air or other pollution monitoring data, including data compiled from stationary sources, are public records.
- C. Except as otherwise provided in (D), trade secrets are not public records under this Regulation. Trade secrets as used in this Regulation may include, but are not limited to any formula, plan, pattern, process, tool, mechanism, compounds, procedure, production rate or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. The owner or operator shall state in writing the justification for claiming material as trade secrets and such justification shall be public record. The Air Pollution Control Officer shall rule on the validity of trade secret claims. Requests from the public for records shall be specific and in sufficient detail to enable the District to readily identify the information requested.
- D. Notwithstanding any other provision of the law, all air pollution emission data, including those emission data which constitute trade secrets as defined in (C), are public records. Production data used to calculate emission data are not emission data for purposes of this subdivision and data which constitutes trade secrets and which are used to calculate emission data are not public records.

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# **RULE 410 RECORDKEEPING FOR VOLATILE ORGANIC COMPOUND EMISSIONS**

Adopted 09-25-90  
(Amended 11-03-94)

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## 100 GENERAL

- 101 APPLICABILITY:** The provisions of this rule shall apply to an owner or operator of a stationary source within the District conducting operations, which include the use of fuels, adhesives, coatings, solvents, and/or graphic arts materials, when records are required to determine a District rule's applicability or source's exemption from a rule, rule compliance, or specifically as a Permit to Operate or an Authority to Construct condition.
- 102 RULES REQUIRING RECORDKEEPING:** District rules requiring record-keeping as outlined by Rule 410 include, but are not limited to, the following:  
Rule 212 - Storage of Petroleum Products  
Rule 213 - Gasoline Transfer into Stationary Storage Containers  
Rule 215 - Transfer of Gasoline into Tank Trucks, Trailers and Railroad Tank Cars at Loading Facilities  
Rule 216 - Organic Solvent Cleaning and Degreasing Operations  
Rule 217 - Cutback and Emulsified Asphalt Paving Materials  
Rule 223 - Metal Container Coating

## 200 DEFINITIONS

- 201 EXEMPT COMPOUNDS:** For the purposes of this rule, exempt compounds are the following:
- 201.1 Methane
  - 201.2 Carbon dioxide
  - 201.3 Carbon monoxide
  - 201.4 Carbonic acid
  - 201.5 Metallic carbides or carbonates
  - 201.6 Ammonium carbonate
  - 201.7 1,1,1-trichloroethane
  - 201.8 Methylene chloride
  - 201.9 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
  - 201.10 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
  - 201.11 Trichlorofluoromethane (CFC-11)
  - 201.12 Dichlorodifluoromethane (CFC-12)
  - 201.13 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113)
  - 201.14 1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane (CFC-114)
  - 201.15 Chloropentafluoroethane (CFC-115)
  - 201.16 Pentafluoroethane (HFC-125)
  - 201.17 1,1,2,2-tetrafluoroethane (HFC-134)
  - 201.18 Tetrafluoroethane (HFC-134a)
  - 201.19 1,1-dichloro-1-fluoroethane (HCFC-141b)
  - 201.20 1-chloro-1,1-difluoroethane (HCFC-142b)
  - 201.21 1,1,1-trifluoroethane (HFC-143a)
  - 201.22 Chlorodifluoromethane (HCFC-22)
  - 201.23 Trifluoromethane (HFC-23)
  - 201.24 Difluoroethane (HFC-152a)
  - 201.25 The following four classes of perfluorocarbon compounds:
    - a. Cyclic, branched, or linear, completely fluorinated alkanes.
    - b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.

- c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
- d. Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Perfluorocarbon compounds will be assumed to be absent from a product or process unless a manufacturer or facility operator identifies the specific individual compounds (from the broad classes of perfluorocarbon compounds) and the amounts present in the product or process and provides a validated test method which can be used to quantify the specific compounds.

**202 GRAPHIC ARTS MATERIALS:** Any inks, coatings, adhesives, fountain solutions, thinners, retarders, or cleaning solutions used in printing or related coating or laminating processes.

**203 LOW SOLIDS ADHESIVE, ADHESIVE PRIMER, OR STAIN:** One which has less than one pound of solids per gallon of material.

**204 PERMIT UNIT:** Any article, machine, equipment, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants, and which requires a written permit pursuant to the provisions of Rule 501.

**205 STATIONARY SOURCE:** Any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. "Building, structure, facility, or installation" includes all pollutant emitting activities including emissions units which:

- 205.1 Are located on one or more contiguous or adjacent properties; and
- 205.2 Are under the same or common ownership or operation, or which are owned or operated by entities which are under common control; and
- 205.3 Belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code, or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material.

**206 VOLATILE ORGANIC COMPOUND (VOC):** Any compound which contains at least one atom of carbon, except exempt compounds.

### **300 STANDARDS**

#### **301 REQUIREMENTS:**

- 301.1 An owner or operator of a stationary source using fuels, adhesives, coatings, solvents, and/or graphic arts materials and subject to this rule shall maintain daily records of operations for the most recent two (2) year period, and not less than the most recent five (5) years for sources subject to the requirements of Rule 507, FEDERAL OPERATING PERMIT PROGRAM. In addition, the operating parameters of basic process equipment, any control equipment and capture system(s) shall be recorded and those records maintained as specified above.

301.2 The records shall be retained on the premises of the affected operation for a period of not less than two (2) years, and not less than five (5) years for sources subject to the requirements of Rule 507, FEDERAL OPERATING PERMIT PROGRAM. Said records shall be made available to the District upon request. The records shall include, but are not limited to, the following:

- a. Each applicable District rule number pertinent to the operation for which records are being maintained;
- b. A list of the permit units involved in the operation(s) using fuels, adhesives, coatings, solvents, and/or graphic arts materials;
- c. The method of application and substrate type;
- d. The amount and type of fuel(s), adhesive(s), coating(s) (including catalyst and reducer), solvent(s) (including diluent, surface preparation, clean-up, and wash-up solvents), and/or graphic arts material(s) used in each permit unit or dispensing station;
- e. For each adhesive, coating (including catalyst and reducer), solvent, and/or graphic arts material; the material density; VOC content in percent by weight of material, less water and exempt compounds; exempt compounds in percent by weight of material; solids content in percent by volume, gallons per gallon of material, or liter per liter of material; constituent composition in percent by weight of material; and pounds of VOC emitted per volume of solids. Data shall be recorded for the material(s) as applied;
- f. For fuels, a record of the fuel specification which may include, but is not limited to: constituent analyses, ultimate analyses, and physical properties;
- g. The composition and amount of diluent, surface preparation, clean-up, or wash-up solvent used per day and the VOC content of each including the amount used of exempt compounds. In addition, the method of application (wipe, dipping in a vat, spray, etc.), the substrate the solvent is applied to (metal, plastic, etc.), and the purpose of use (cleanup of equipment or parts, surface preparation, etc.) should also be recorded;
- h. Where applicable, the initial boiling point of solvents used as surface cleaners;
- i. Oven temperatures (for coating operations); and
- j. Operating parameters of basic process equipment, control devices, and the capture system, which effect or have the potential to effect the quantity, extent, or characteristics of emitted pollutants.

**302 CALCULATING VOC CONTENT:**

302.1 VOC content (less water and exempt compounds) for paint, varnish, adhesive, lacquer, non-solvent-borne inks, or related surface coatings shall be calculated using EPA Reference Method 24 (Determination of Volatile Matter Content, Water Content, Density Volume Solids, and Weight Solids of Surface Coatings, Code of Federal Regulations Title 40, Part 60, Appendix A).

302.2 The test method shall be documented. The VOC content of any material applicable under this rule may be supplied by a Material Safety Data Sheet (MSDS) or data sheet provided the test method described above is used and specified on the MSDS or data sheet.

302.3 VOC content and density of solvent-borne (solvent reducible) printing inks or related coatings shall be determined by EPA Reference Method 24A (Determination of Volatile Matter Content and Density of Printing Inks and Related Coatings, Code of Federal Regulations Title 40, Part 60, Appendix A).

**303 INITIAL BOILING POINT:** The Initial Boiling Point for surface preparation and cleanup solvents shall be determined by the current ASTM 1078-78.

#### **400 ADMINISTRATIVE REQUIREMENTS**

**401 COMPLIANCE SCHEDULE:** Provisions of this rule shall become effective upon the date of its adoption.